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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,533	04/27/2001	Tatsuhito Takahashi	01254C/HG	3735

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EXAMINER

MARCANTONI, PAUL D

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 04/11/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/844,533	4/27/01	Takahashi et al.	01254c/HG

136

EXAMINER	
Paul Marcantoni	
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Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

### ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run 6 mos. or continues to run \_\_\_\_\_ from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 4/4/03 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☒ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☒ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - b. ☒ They raise new issues that would require further consideration and/or search. (See Note).
  - c. ☐ They raise the issue of new matter. (See Note).
  - d. ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - e. ☒ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: See attached sheets

2. ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☐ Upon the filing an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 18, 19, & 21-55

However;

☐ Applicant's response has overcome the following rejection(s): \_\_\_\_\_

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because for the reasons above, the reasons set forth in the final rejection, & the reasons set forth in the attached sheets.

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

*Paul Marcantoni*  
PAUL MARCANTONI  
PRIMARY EXAMINER  
GROUP 1700

Applicant's arguments filed 4/4/03 have been fully considered but they are not persuasive.

New Matter Rejection of Claim 55: Withdrawn:

The new matter rejection of claim 55 is withdrawn because applicants provide support for the feature of 80 to 1500 mm on page 73, line 17 of the specification.

Non-Entry of Claim 56:

Claim 56 has not been entered because:

1) no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.

2) it raises new issues since now the applicants are claiming a "method for repairing a river bed" which was not an invention elected by original presentation. Applicants' instant claims are solely directed to an underwater immersion block and a method of producing an underwater immersion block (see independent claims 18 and 19). There is no earlier claims to " a method for repairing a river bed".

3) no simplification of issues for appeal.

4) Claim 56 is the presentation of an additional and new claim yet applicants fail to cancel another claim.

Entry of claim 56 is thus denied.

Response:

The applicants acknowledge that the Knopf patents teach carbonated cementitious materials can also be used for artificial reefs. The applicants argue that Knopf et al. do not teach how such an artificial reef would be constructed. In rebuttal, one of ordinary skill in the art would have understood that cement blocks for use in artificial reefs have been notoriously known in the art and have been used for decades.

The Jones et al. '792, Warren et al. '660, Mostkoff '265, Barnes '792 B1 patents have been cited of interest as relevant art showing that the use of cement blocks for artificial reefs is old in the art.

The article "The Miroz System for the Construction of Artificial Coral Reefs Using Coral Fragments" also teaches "cement blocks" for artificial reefs.

The article by Jim Hardie dated March 22, 1998, of "Private artificial reef may be in your fishing future" from the internet site [www.artificialreefs.org](http://www.artificialreefs.org) even stated the following in his conclusion on page 4. "What a lot of people do not realize is, many fisherman have been dumping things- cement blocks... to build their own reefs for decades".

Are applicants willing to state for the record that no one before them ever thought of using cement blocks to make artificial reefs? It is evident that they most certainly were not the first and it would have been an obvious design choice for one of ordinary skill in the art to construct an artificial reef using a variety of known techniques including using cement blocks.

Regarding the use of the immersion blocks to repair a river bed, this is a new issue and a this method claim for repairing a river bed was non-elected by original presentation and represents an entirely new issue. Nevertheless, this method of repairing the river bed is the same thing as forming an artificial reef. The applicants are not repairing a river bed to put a bridge or tunnel or other construction work above or under it but placing these blocks in a body of water to form an underwater ecosystem for plants and animals. In other words, a artifical reef..

Do applicants not even state on page 4 of their response and page 5 of their specification that the repairing of riverbeds to be suited to water living creatures such as fish, shell, water insects, plants,etc. as well as on page 79 and 107 of their specification as excellent living spaces for water living plants and animals. Is this not the definition of an artificial reef? It is the examiner's position that the applicants are themselves merely forming an artifical reef by using immersion blocks. This has been shown by the Knopf patents to be old in the art and the applicants' position is not convincing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is (703)-308-1196. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell can be reached on (703) 308-3823. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9310 for regular communications and (703)-872-9311 for After Final communications.

Art Unit: 1755

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.



Paul Marcantoni  
Primary Examiner  
Art Unit 1755